IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.461 OF 1997

The Commissioner of Income Tax
Kolhapur .. Applicant.

V/s.

Kolhapur Zilla Dudh Utpadak
Sangh Limited, Kolhapur .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court, reading as under :

> Whether on the facts and in the circumstances of the case, the Tribunal relying on the decision of the Special Bench of the Tribunal in the case of Shri Chhatrapati S.S.K. Ltd. (198 ITR 78 - AT) was right in deleting the following additions by holding that the various funds/deposits collected by the assessee society from the price of milk paid payable to the its members are not trading receipts of the assessee :
>
> 1) Non-refundable deposits Rs.38,58,792
> 2) Interest on NRD Rs.18,47,187

2. In so far as both the items viz. Non-refundable deposits and Interest on N.R.D., are

concerned, the issue is covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)